

आयकर अपीलीय अधिकरण, 'ए' न्यायपीठ, चेन्नई।
IN THE INCOME TAX APPELLATE TRIBUNAL
'A' BENCH: CHENNAI

श्री एबी टी. वर्की, न्यायिक सदस्य एवं
श्री जगदीश, लेखा सदस्य के समक्ष

BEFORE SHRI ABY T. VARKEY, JUDICIAL MEMBER AND
SHRI JAGADISH, ACCOUNTANT MEMBER

आयकर अपील सं./ITA Nos.1286 & 1287/Chny/2024
निर्धारणवर्ष/Assessment Years: 2015-16 & 2017-18

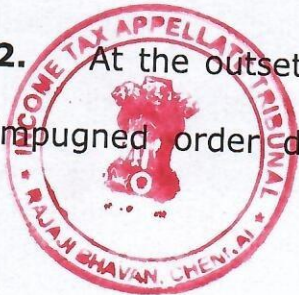
Academy of Scientific & Innovative Research, AcSIR Headquarters, CSIR-HRDC Campus, Sector-19, Kamla Nehru Nagar, Ghaziabad, Uttar Pradesh-201 002.	v.	The ITO, Exemption Ward-4, Chennai.
[PAN: AAALA 1352 P]		
(अपीलार्थी/Appellant)		(प्रत्यर्थी/Respondent)
अपीलार्थी की ओर से/ Appellant by	:	Mr. Rahul Tyagi, CA
प्रत्यर्थी की ओर से /Respondent by	:	Mrs. G. Saratha, Addl.CIT
सुनवाईकीतारीख/Date of Hearing	:	19.11.2024
घोषणाकीतारीख /Date of Pronouncement	:	31.12.2024

आदेश / ORDER

PER ABY T. VARKEY, JM:

These are appeals preferred by the assessee against the order of the Learned Commissioner of Income Tax (Appeals)/NFAC, (hereinafter in short "the Ld.CIT(A)"), Delhi, both dated 12.09.2023 for the Assessment Year (hereinafter in short "AY") 2015-16 & 2017-18.

2. At the outset, the Ld.AR brought to our notice that by passing the impugned order dated 12.09.2023, the Ld.CIT(A) has confirmed the





:: 2 ::

action of the AO u/s.143(3) of the Income Tax Act, 1961 (hereinafter in short 'the Act') thereby denying the exemption claimed u/s.11 & 12 of the Act because the assessee didn't file the relevant Form 10 before the due date of filing the Return of Income (RoI) [i.e. to avail accumulation of income for AY 2015-16 & for AY 2017-18; and the non-filing of Form 10B (Audit Report) along with RoI for AY 2017-18]. It was also brought to our notice that assessee has preferred applications for condoning delay in filing of Form 10 & 10B in both AYs before the Ld.CIT(E). Further, it was brought to our notice that for AY 2017-18, the Ld.CIT(E) who is the competent authority to condone the delay in filing of Form 10B (Audit Report) has condoned the delay by order dated 25.08.2020 [refer Page Nos.1-2 of the Paper Book for AY 2017-18]. However, condonation of delay in filing Form 10 dated 16.08.2019 [refer Page No.3-4 of the Paper Book] as well as application for condonation of delay in Form 10 dated 20.10.2017 for AY 2015-16 [refer Page Nos.1-2 of the Paper Book for AY 2015-16] is still pending for condonation before the Ld.CIT(E). Moreover, it was brought to our notice that the aforesaid facts especially the fact that assessee's applications for condoning the delay (supra) was pending before the Ld.CIT(E), still the Ld.CIT(A) has confirmed the action of the AO denying the exemption. We don't countenance such an impugned action of the Ld.CIT(A) since we note that the assessee has filed application seeking condonation of delay before the competent authority





:: 3 ::

[i.e. the Ld.CIT(E)], and since the outcome of the same would have direct bearing on the claim of the assessee, for the interest of justice and fair play, we set aside the impugned orders of the Ld.CIT(A) and restore the appeals back to the file of the Ld.CIT(A) and direct him to await the outcome of the condonation application pending before the Ld.CIT(E) and re-adjudicate the appeal on the basis of the outcome of the same. For such an action, we rely on the decision of the co-ordinate Bench of this Tribunal in ITA No.1093/Chny/2024 for AY 2018-19 in the assessee's own case order dated 04.09.2024, wherein on similar circumstances, identical decision has been taken. Needless to say that the assessee to follow up with the office of the Ld.CIT(E) and convey the outcome to the Ld.CIT(A) regarding its applications for condoning the delay (supra) and file relevant documents/written submissions if advised to support its grounds of appeal before Ld CIT(A); and thereafter, the Ld.CIT(A) to decide the grounds of appeal in accordance to law.

3. In the result, appeals filed by the assessee are allowed for statistical purposes.

Order pronounced on the 31st day of December, 2024, in Chennai.

Sd/-
(जगदीश)
(JAGADISH)
लेखा सदस्य/ACCOUNTANT MEMBER



Sd/-
(एबी टी. वर्की)
(ABY T. VARKEY)
न्यायिक सदस्य/JUDICIAL MEMBER



ITA Nos.1286 & 1287/Chny/2024
(AYs 2015-16 & 2017-18)
Academy of Scientific &
Innovative Research

:: 4 ::

चेन्नई/Chennai,
दिनांक/Dated: 31st December, 2024.
TLN, Sr.PS

आदेश की प्रतिलिपि अग्रेषित/Copy to:

1. अपीलार्थी/Appellant
2. प्रत्यर्थी/Respondent
3. आयकर आयुक्त/CIT, Chennai / ~~Madurai~~ / ~~Salem~~ / ~~Coimbatore.~~
4. विभागीय प्रतिनिधि/DR
5. गार्डफाईल/GF

अप्रमाणित प्रतिलिपि
CERTIFIED TRUE COPY

जय/सहायक रजिस्ट्रार/डी.डी.ओ./DY/ASST. REGISTRAR/D.O.
आयकर अपीलार्थी अदालत / INCOME TAX APPELLATE TRIBUNAL
चेन्नई बेंच/CHENNAI BENCHES

